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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,282	07/18/2003	Binyamin Pinkas		4594 .

	7590	01/19/2007		EXAMINER

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EXAMINER
FEARER, MARK D

ART UNIT	PAPER NUMBER
2112	.

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/622,282	PINKAS, BINYAMIN
	Examiner	**Art Unit**
	Mark D. Fearer	2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Priority

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (paragraphs 0011 and 0017). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

Claims 1, 9 and 17 objected to because of the following informalities: the bullet items that are marked with lower case letters should be followed by a close parenthesis, not a period, for example, "a)", not "a.". Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 -20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application

producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claims 17 - 20 claim the non-statutory subject matter of a program. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Therefore, since the claimed programs are not tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 – 20 are rejected under 35 U.S.C. 112, second paragraph, as failing to comply with the written description requirement. There is no definition of what a computer program package is. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 17 – 20 reference a computer program package that is not mentioned in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 8-11, 13 and 16-18 are rejected under 35 U.S.C. 102(e) as being

anticipated by Schloer (US 20030140097 A1).

Consider claim 1. Schloer clearly shows and discloses a method for selectively

accepting service requests from a client connected to a server by a communications

network, comprising:

a. said server receiving an access request from said client ("...said user being

able to access said data server over a network..." abstract);

b. said server obtaining identifying information of said client provided by a

communications network ("In accordance with the embodiment, an identification (ID)

identifying the user is received." paragraph 70);

c. said server retrieving information of previous service requests (with same

identifying information) ("These requests can either be requests for completely new data

or subsequent requests, i.e. requests that are automatically fired as a consequence of a

previous response." Paragraphs 72-75 and 360);

        d. said server deciding whether said client is entitled to service, wherein the

decision is based, at least in part, on said information of previous service requests with

same identifying information ("Requests for content descriptions (i.e. content information

and data about the representations) are sent to the BOS when the VCM wants to

display an actual content. The ContentDescriptionVTMessage contains the serial

number of the content to be returned (the number is known because it was fetched

before with an SnrDescrip-tionVTMessage)." Paragraphs 72-75 and 546);

        e. said server accepting the service request if said client is entitled to service,

and denying the service request otherwise; whereby the server is able to limit the

number of services granted to an automated agent operating the client ("A Transaction

Channel itself does not perform actual work. All it does is, it has BTE sub-scribe to it

and then route BOS agents that travel on the channel to the right BTE. By introducing

Transaction Channels we can limit the ability of BTE to only listen to certain channels.

E.g. we could have a certain BTE only listen to the Financial Channel. Another one

could be listening to Logistics Channel or Execution Channel. The decision on which

channel a BOS agent is sent originally is made by the BOS Agency." Paragraphs 72-

75).

        Consider claim 2. Schloer clearly shows and discloses a method wherein the

server approves service to said client if the number of previous service requests with

same identifying information, performed during a predetermined time period, is smaller

than a predetermined threshold ("...the RequestReceiver checks for every request and

user if access to the system is granted or declined for a variety of reasons, from

exceeding the maximum number of user sessions allowed to user session time outs."

paragraph 360).

Consider claim 3. Schloer clearly shows and discloses a method wherein the

identifying information is provided by a telephone network ("Each of the communication

modules 33 provide a communication channel to a respective network, e.g. a telephone

network" paragraph 82).

Consider claim 5. Schloer clearly shows and discloses a method wherein the

identifying information is provided by the network that is used for the service request

("According to one preferred embodiment, the system of the invention comprises:

establishing a connection with the user via a communication module, receiving a user

identification identifying the user, transferring the identification to an input module that is

arranged such that it may only receive data from the communication module, but may

not send the data to the communication module, transferring the identification and/or

data derived by processing the identification to a data selection module, said data

selection module being arranged such that it may only receive data from said input

module, but may not send data to the input module, that it may access said data

storage device and that is may determine which data in the data storage device are to

be presented to the user on the basis of the information received from the input module"

paragraph 10 and 70).

Consider claim 8. Schloer clearly shows and discloses a method wherein the

request is accepted only if a connection with the client is kept open for a predetermined

length of time ("From this point of view, the WSI realized basic session management

since it also automatically terminates session (i.e. does not accept following requests)

when they are timed out." paragraph 373).

Consider claim 9. Schloer clearly shows and discloses an apparatus for

accepting service requests from a client connected to a server by a network,

comprising:

a. means for said server to receive identifying information of said client ("In

accordance with the embodiment, an identification (ID) identifying the user is received."

paragraph 70);

b. storage means for storing data of previous service requests and corresponding

identifying information of clients ("These requests can either be requests for completely

new data or subsequent requests, i.e. requests that are automatically fired as a

consequence of a previous response." paragraphs 72-75 and 360);

c. means for deciding if said client is entitled to service, wherein the decision is

based, at least in part, on data about previous service requests with same identifying

information stored in said storage means, and type of service request ("Requests for

content descriptions (i.e. content information and data about the representations) are

sent to the BOS when the VCM wants to display an actual content. The

ContentDescriptionVTMessage contains the serial number of the content to be returned

(the number is known because it was fetched before with an SnrDescrip-

tionVTMessage)." Paragraphs 72-75 and 546);

d. means for accepting the service request if said client is entitled to service, and

otherwise denying the service request; whereby the server is able to limit the number of

services granted to an automated agent operating the client ("A Transaction Channel itself does not perform actual work. All it does is, it has BTE sub-scribe to it and then route BOS agents that travel on the channel to the right BTE. By introducing Transaction Channels we can limit the ability of BTE to only listen to certain channels. E.g. we could have a certain BTE only listen to the Financial Channel. Another one could be listening to Logistics Channel or Execution Channel. The decision on which channel a BOS agent is sent originally is made by the BOS Agency." paragraphs 72-75 and 280).

Consider claim 10. Schloer clearly shows and discloses an apparatus wherein the service request is accepted if the number of previous service requests with same identifying information, performed during a predetermined time period, is smaller than a predetermined threshold ("...the RequestReceiver checks for every request and user if access to the system is granted or declined for a variety of reasons, from exceeding the maximum number of user sessions allowed to user session time outs." paragraph 360).

Consider claim 11. Schloer clearly shows and discloses an apparatus wherein the identifying information is provided by a telephone network ("Each of the communication modules 33 provide a communication channel to a respective network, e.g. a telephone network" paragraph 82).

Consider claim 13. Schloer clearly shows and discloses an apparatus wherein the identifying information is provided by the network that is used for the service request ("According to one preferred embodiment, the system of the invention comprises: establishing a connection with the user via a communication module, receiving a user

identification identifying the user, transferring the identification to an input module that is arranged such that it may only receive data from the communication module, but may not send the data to the communication module, transferring the identification and/or data derived by processing the identification to a data selection module, said data selection module being arranged such that it may only receive data from said input module, but may not send data to the input module, that it may access said data storage device and that is may determine which data in the data storage device are to be presented to the user on the basis of the information received from the input module" paragraph 10 and 70).

Consider claim 16. Schloer clearly shows and discloses an apparatus that accepts a request only if a connection with the client is kept open for a predetermined length of time ("From this point of view, the WSI realized basic session management since it also automatically terminates session (i.e. does not accept following requests) when they are timed out." paragraph 373).

Consider claim 17. Schloer clearly shows and discloses a method for selectively accepting service requests from a client connected to a server by a communications network, comprising:

a. said server receiving an access request from said client ("...said user being able to access said data server over a network..." abstract);

b. said server obtaining identifying information of said client provided by a communications network ("In accordance with the embodiment, an identification (ID) identifying the user is received." paragraph 70);

c. said server retrieving information of previous service requests (with same

identifying information) ("These requests can either be requests for completely new data

or subsequent requests, i.e. requests that are automatically fired as a consequence of a

previous response." Paragraphs 72-75 and 360);

d. said server deciding whether said client is entitled to service, wherein the

decision is based, at least in part, on said information of previous service requests with

same identifying information ("Requests for content descriptions (i.e. content information

and data about the representations) are sent to the BOS when the VCM wants to

display an actual content. The ContentDescriptionVTMessage contains the serial

number of the content to be returned (the number is known because it was fetched

before with an SnrDescrip-tionVTMessage)." paragraphs 72-75 and 546);

Consider claim 18. Schloer clearly shows and discloses a method wherein the

identifying information is provided by a telephone network ("Each of the communication

modules 33 provide a communication channel to a respective network, e.g. a telephone

network" paragraph 82).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Schloer (US 20030140097 A1) in view of Scott et al. (hereinafter Scott) (US 7123608

B1).

Regarding claim 4, and as applied to claim 3 above, Schloer discloses a method

of communication via a telephone network. This reads on the claimed "...identifying

information of said client ... provided by a telephone network." (paragraph 86).

However, Schloer fails to teach the identifying information of said client as being caller

ID data. Scott discloses a method of ANI, or caller ID information, that can be used by

gateway server applications in order to identify a user. This reads on the claimed

"...identifying information is provided by a telephone network wherein the identifying

information of said client is a caller id data provided by a telephone network." (column

69 lines 1 - 8).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate the method of ANI, or caller ID

information as taught by Scott with the identifying information of said client provided by

a telephone network as taught by Schloer for the purpose of identifying information of

said client using ANI, or caller ID information provided by a telephone network without asking for identification.

Regarding claim 12, and as applied to claim 11 above, Schloer discloses an apparatus of communication via a telephone network. This reads on the claimed "...identifying information of said client ... provided by a telephone network." (paragraph 86). However, Schloer fails to teach the identifying information of said client as being caller ID data. Scott discloses an apparatus using ANI, or caller ID information, that can be used by gateway server applications in order to identify a user without asking for identification. This reads on the claimed "...identifying information is provided by a telephone network wherein the identifying information of said client is a caller id data provided by a telephone network." (column 69 lines 1 - 8).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the apparatus using ANI, or caller ID information as taught by Scott with the identifying information of said client provided by a telephone network as taught by Schloer for the purpose of identifying information of said client using ANI, or caller ID information provided by a telephone network without asking for identification.

Claims 6, 7, 14, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schloer (US 20030140097 A1) in view of Robinson ('Can Hard AI Problems Foil Internet Interloper').

Regarding claim 6, and as applied to claim 1 above, Schloer discloses a method client server authentication. This reads on the claimed "...the server sending to the client...and the client sending back...to the server." (paragraph 75). However, Schloer fails to teach a sequence of characters exchanged between a server and a client. Robinson discloses a method of CAPTCHA, a turing test, that prompts users to repeat characters, a test that humans can pass but computer programs cannot. This reads on the claimed "...server sending to the client a sequence of characters and the client sending back this sequence to the server" ("...Among the Captchas is a visual character recognition puzzle called Gimpy. One instance of Gimpy is a picture containing seven distorted, overlapping words chosen at random from an 850-word dictionary. Solving the puzzle requires identifying three of the seven words and typing them into the box provided." 'Can Hard AI Problems Foil Internet Interloper', paragraph 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method CAPTCHA, a turing test as taught by Robinson with the client server authentication as taught by Schloer for the purpose of optimal authentication.

Regarding claim 7, Schloer discloses a method client server authentication. This reads on the claimed "...request is accepted only if the identifying information of said client is received..." (paragraph 10). However, Schloer fails to teach receiving the information within a predetermined period of time. Robinson discloses a method of requiring applications to be answered within a short period of time. This reads on the claimed "...request is accepted only if the identifying information of said client is

received within a predetermined length of time" ("Given exponential time and space, many AI problems might become easy. But many computer scientists believe the human brain itself to be a sophisticated computing machine, and it's unlikely that any machine uses exponential-time algorithms." 'Can Hard AI Problems Foil Internet Interloper', paragraph 3).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the predefined time for receiving the identifying information as taught by Robinson with the request being accepted from said client as taught by Schloer for the purpose of defining a time period in which authentication must be made.

Regarding claim 14, and as applied to claim 9 above, Schloer discloses an apparatus for client server authentication. This reads on the claimed "...sending to the client...receiving from the client." (paragraph 75). However, Schloer fails to teach a sending and receiving a sequence of characters. Robinson discloses a method of CAPTCHA, a turing test, that prompts users to repeat characters, a test that humans can pass but computer programs cannot. This reads on the claimed "...sending ...a sequence of characters ...and receiving from the client a message containing this sequence" ("...Among the Captchas is a visual character recognition puzzle called Gimpy. One instance of Gimpy is a picture containing seven distorted, overlapping words chosen at random from an 850-word dictionary. Solving the puzzle requires identifying three of the seven words and typing them into the box provided." 'Can Hard AI Problems Foil Internet Interloper', paragraph 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the apparatus using CAPTCHA, a turing test as taught by Robinson with the client server authentication as taught by Schloer for the purpose of optimal authentication.

Regarding claim 15, and as applied to claim 9 above, Schloer discloses an apparatus using client authentication. This reads on the claimed "...request is accepted only if the identifying information of said client is received..." (paragraph 10). However, Schloer fails to teach receiving the information within a predetermined period of time. Robinson discloses an apparatus requiring applications to be answered within a short period of time. This reads on the claimed "...request is accepted only if the identifying information of said client is received within a predetermined length of time" ("Given exponential time and space, many AI problems might become easy. But many computer scientists believe the human brain itself to be a sophisticated computing machine, and it's unlikely that any machine uses exponential-time algorithms." 'Can Hard AI Problems Foil Internet Interloper', paragraph 3).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the predefined time for receiving the identifying information as taught by Robinson with the request being accepted from said client as taught by Schloer for the purpose of defining a time period in which authentication must be made.

Regarding claim 19, Schloer discloses a method client server authentication. This reads on the claimed "...the server sending to the client...and the client sending back...to the server." (paragraph 75 line 2). However, Schloer fails to teach a sequence of characters exchanged between a server and a client. Robinson discloses a method of CAPTCHA, a turing test, that prompts users to repeat characters, a test that humans can pass but computer programs cannot. This reads on the claimed "...server sending to the client a sequence of characters and the client sending back this sequence to the server" ("...Among the Captchas is a visual character recognition puzzle called Gimpy. One instance of Gimpy is a picture containing seven distorted, overlapping words chosen at random from an 850-word dictionary. Solving the puzzle requires identifying three of the seven words and typing them into the box provided." 'Can Hard AI Problems Foil Internet Interloper', paragraph 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the method CAPTCHA, a turing test as taught by Robinson with the client server authentication as taught by Schloer for the purpose of a server sending to the client a sequence of characters and the client sending back this sequence to the server.

Regarding claim 20, Schloer discloses a method client server authentication. This reads on the claimed "...request is accepted only if the identifying information of said client is received..." (paragraph 10 line 1). However, Schloer fails to teach receiving the information within a predetermined period of time. Robinson discloses a method of requiring applications to be answered within a short period of time. This reads on the

claimed "...request is accepted only if the identifying information of said client is received within a predetermined length of time" ("Given exponential time and space, many AI problems might become easy. But many computer scientists believe the human brain itself to be a sophisticated computing machine, and it's unlikely that any machine uses exponential-time algorithms." 'Can Hard AI Problems Foil Internet Interloper', paragraph 3).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the predefined time for receiving the identifying information as taught by Robinson with the request being accepted from said client as taught by Schloer for the purpose of defining a time period in which authentication must be made.

Conclusion

Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

> Customer Service Window
> Randolph Building
> 401 Dulany Street
> Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Mark Fearer whose telephone number is (571) 270-

1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to

5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Rafael Pérez-Gutiérrez can be reached on (571) 272-7915. The fax phone

number for the organization where this application or proceeding is assigned is (571)

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist/customer service whose telephone

number is (571) 272-2600.

Mark Fearer
M.D.F./mdf
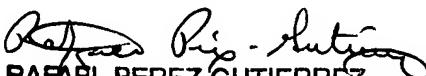
RAFAEL PEREZ-GUTIERREZ
SUPERVISORY PATENT EXAMINER

January 8, 2007   1/10/07